

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARK R. GALLAGHER,

Plaintiff,

-v-

No. 10 Civ. 8338 (LTS)(AJP)

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

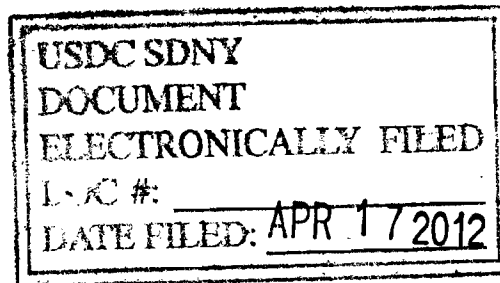
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ORDER

The Court has reviewed Magistrate Judge Peck's March 22, 2012, Report and Recommendation (the "Report"), which recommends that Defendant's motion for judgment on the pleadings should be denied and that Plaintiff's cross-motion for judgment on the pleadings should be granted and that the case should be remanded for further development of the record. Neither party filed objections to the Report.

In reviewing a report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (West 2006). In a case such as this one, where neither party files timely objections to the magistrate judge's report and recommendation, a district court need only determine that the recommendation is not clearly erroneous or contrary to the law. Arista Records LLC v. Doe, 604 F.3d 110, 117 (2d Cir. 2010); see Fed. R. Civ. P. 72.

The Court has carefully reviewed Magistrate Judge Peck's thorough Report and finds no clear error. The Court therefore adopts the Report in its entirety for the reasons stated




therein. Defendant's motion for judgment on the pleadings is denied and Plaintiff's cross-motion is granted. Pursuant to the fourth sentence of 42 U.S.C. § 405(g), this Court remands this action back to the Commissioner of Social Security for further development of the record. 42 U.S.C. § 405(g).

The Clerk of the Court is respectfully requested to enter judgment accordingly and close this case.

SO ORDERED.

Dated: New York, New York
April 17, 2012



LAURA TAYLOR SWAIN
United States District Judge